SUPREME COURT, U. S.

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E. ROBERT SEAVER, CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1970

No. 994

WILSON BURTON, ET AL.,
Defendants-Appellants,

vs.

AMERICAN NATIONAL BANK AND TRUST COMPANY, AS TRUSTEE UNDER TRUST NO. 16963,
Plaintiff-Appellee.

(Together With 80 Other Cases.)

ON APPEAL FROM THE SUPREME COURT OF ILLINOIS.

MOTION PURSUANT TO RULES 16(b) AND 16(d) TO DISMISS APPEAL.

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THE DARNELL-WARREN PRINTING COMPANY, CHICAGO

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Gerald Crane; Cosmopolitan National Bank, as Trustee; American National Bank, as Trustee; Lawndale National Bank, as Trustee; and Sears Bank & Trust Co., as Trustee. Plaintiff-Appellees in 12 of the 81 cases sought to be appealed to this Court, adopt in full the Motion Pursuant To Rules 16(b) and 16(d) To Dismiss Appeal heretofore filed in this case by Hamilton Corporation, Lawson Corporation, *et al.*

In nearly every respect, the posture of the 12 cases

relating to these Plaintiff-Appellees is the same as the posture of the 55 cases relating to the Hamilton Corporation, Lawson Corporation, and related Plaintiff-Appellees. For example, the case entitled *Gerald Crane* v. *Annie Louise Reynolds*, the first case on the list given in Appendix I to the Jurisdictional Statement of Defendants-Appellants, is now entirely moot in that the real estate contract in question has been fully reinstated, the Defendant-Appellant is currently making her payments, and the writ of restitution has been quashed, the right to possession of the property being no longer in dispute. Again, with reference to these Plaintiffs-Appellees, a number of the Appellants have already been evicted from the properties in question and have unlawfully moved back into the premises following said evictions. Appellees are currently conducting actions against Appellants which are separate and distinct from any proceeding sought to be brought here.

Similarly, in less than half of the 12 cases involving these Appellees did the Appellants request the Trial Court to fix the amount of an appeal bond, and even in these instances, they did not file timely notices of appeal; consequently, the Appellants in the cases relating to these Appellees also have no standing to challenge the constitutionality of the appeal bond provisions of the Forcible Act, because such provisions of the statute did not adversely effect any of them. Finally, the wisdom of the Illinois Legislature in requiring the posting of appeal bonds is also manifest in those cases relating to these Plaintiffs-Appellees in that in a number of instances, some of which are not involved on these appeals, in which the Appellants have been evicted or otherwise vacated the properties in question, the properties were returned to Appellees possession with extensive deliberate damage requiring Appellees to expend substantial sums to restore the properties to suitable condition for leasing or sale.

For these reasons and those set forth in the Motion heretofore filed by Hamilton Corporation, Lawson Corporation, *et al.* on this appeal, these Plaintiffs-Appellees respectfully urge this Court to dismiss this appeal.

Respectfully submitted,

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